

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, ET AL.,

Plaintiffs,

v.

COX COMMUNICATIONS, INC. AND  
COXCOM, LLC.

Defendants.

Case No. 1:18-cv-00950-LO-JFA

**DECLARATION OF THOMAS M.  
BUCHANAN IN SUPPORT OF  
COX'S MOTION TO EXCLUDE  
THE TESTIMONY OF PUTATIVE  
EXPERT GEORGE P. MCCABE,  
Ph.D.**

I, Thomas M. Buchanan, hereby declare:

1. I am a partner at the law firm Winston & Strawn LLP, counsel to Defendants Cox Communications, Inc. and CoxCom, LLC (collectively, "Cox") and represent Cox in the above-captioned matter. I submit this Declaration in support of Cox's Motion to Exclude the Testimony of Putative Expert George P. McCabe, Ph.D. Except as otherwise stated, I have personal knowledge of all facts stated in this declaration and if called upon as a witness, I could and would competently testify thereto.

2. Attached as **Exhibit A** is a true and correct copy of the Report of George P. McCabe, Ph.D., dated April 10, 2019.

3. Attached as **Exhibit B** is a true and correct copy of the Expert Report of George P. McCabe, Ph.D., dated May 15, 2019.

4. Attached as **Exhibit C** is a true and correct copy of Expert Supplemental / Reply Report of George P. McCabe, Ph.D., dated June 19, 2019.

5. Attached as **Exhibit D** is a true and correct copy of excerpts of the transcript of the

videotaped deposition of George P. McCabe, Ph.D., dated June 20, 2019.

6. Attached as **Exhibit E** is a true and correct copy of excerpts of the transcript of the videotaped deposition of Slawomir Paszkowski, who was a Rule 30(b)(6) designee of MarkMonitor, Inc., dated July 2, 2019.

7. Attached as **Exhibit F** is a true and correct copy of the Independent Expert Assessment of MarkMonitor AntiPiracy Methodologies, dated October 14, 2012 and bearing beginning Bates number RIAA\_00127769.

8. **Exhibit G** a true and correct copy of the native excel spreadsheet produced by MarkMonitor with Bates No. MM000236, sorted by the “match\_percentage” column in the eDonkey, Ares, and Gnutella tabs. Cox intends to seek leave to submit this file to the Court via hard drive, as it is impracticable to file it electronically due to its size and formatting. A service copy of the native file will be provided to Plaintiffs via hard drive upon the filing of this declaration.

9. Cox recently filed this same document in support of its Motion to Preclude Plaintiffs’ Use of Certain Evidence, ECF. No. 241, #12-Exhibit K. As demonstrated in the supporting Declaration of Diana H. Leiden, ECF No. 239, Ms. Leiden sorted the spreadsheet and observed that [REDACTED]

[REDACTED]

[REDACTED]:

[REDACTED]

10. Attached as **Exhibit H** is a true and correct copy of Report of Barbara Frederiksen-Cross, dated April 10, 2019.

11. Attached as **Exhibit I** is a true and correct copy of excerpts of the transcript of the videotaped deposition of Vance Ikezoye, who was a Rule 30(b)(6) designee of Audible Magic, dated May 6, 2019.

12. Attached as **Exhibit J** is a true and correct copy of the Rebuttal Expert Report of Dr. Nick Feamster, Ph.D., dated May 15, 2019.

13. Attached as **Exhibit K** is a true and correct copy of the Supplemental and Reply Expert Report of Barbara Frederiksen-Cross, dated June 13, 2019.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 30<sup>th</sup> day of August, 2019 in Washington D.C.

/s/ Thomas M. Buchanan  
Thomas M. Buchanan (VSB No. 21530)